

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 1, 2007

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Nguyen. (Excused)

Vacant: - District 4.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In Re Harrington; (2) Horta, LLC v. City of San José; (3) U.S. Glass v. S.J. Armorsoso, et al.; (4) Robinson v. City of San José; (5) City of San José v. Operating Engineer Local No. 3; (6) Great Oaks Water Co., et al. v. City of San José, et al.; (7) PG&E v. City of San José; (8) International Association of Firefighters, Local 230-Interest Arbitration; (9) City of San José v. International Association of Firefighters, Local 230; (10) Keesling v. City of San José; (11) Serafin v. City of San José, et al.; (12) City of San José v. Housing Development Software, LLC; (13) Grycz v. City of San José, et al.; (14) City of San José v. Green Valley Corporation, et al.; (15) City of San José vs. Dhillon; (16) Rancho San Vicente, LLC v. City of San José, et al.; (17) South Almaden Rural Alliance, et al. v. City of San José, et al.; (18) Allen, et al. v. City of San José, et al.; (19) Bojcic, et al. v. City of San José, et al.; (20) Bushell-McIntyre v. City of San José, et al.; (21) People, et al. v. Alvarez, et al.; (22) People, et al. v. Archstone-Smith, et al.; (23) Diamond Enterprises, Inc. et al. v. City of San José, et al.; (24) Doe v. Doe; (25) Jeffries, et al. v. City of San José; (26) Moscoso (Leonardo), et al. v. City of San José; (27) Naymark, et al. v. City of San José, et al.; (28) Fisher v. City of San José, et al.; (29) Frederick Wyle, et al. v. City of San José, et al. and Sutter's Place, Inc. v. City of San José, et al.; (30) Frederick Wyle, et al. v. City of San José, et al. and Sutter's Place, Inc. v. City of San José, et al.; (31) Miller v. City of San José, et al.; (32) Rios, et al. v. City of San José, et al.; (33) Sanchez v. City of San José; (34) Elmore Pipe Jacking, Inc., a Division of Affholder, Inc. v. City, et al.; (35) City of San José v. World Oil Co.; (36) City of San José v. Union Pacific; (37) City of San José v. Piedmont & Sierra Plaza, LLC; (38) Huynh v. Baiza, et al.;

Closed Session (Cont'd.)

(39) McGuire & Hester v. City, et al.; (40) D&K Painting Company, Inc. v. City of San José, et al.; (41) DeLaRosa, et al. v. City of San José, et al.; (42) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José, et al.; (43) San José Mercury News v. City of San José et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (c), initiation of litigation in one (1) matter; (2), subsection (b) with significant exposure in three (3) matters.

By unanimous consent, Council recessed from the Closed Session at 10:30 a.m. and reconvened at 1:32 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - District 4.

INVOCATION

Reverend Ruben Romero, Associate Pastor, First Apostolic Church of San José. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance during the afternoon Council Session.

The Mt. Hamilton Boy Scout Troop No. 13 led the Pledge of Allegiance during the evening Council Session.

ORDERS OF THE DAY

Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Items 2.1(a)(3) and 2.1(a)(5) were deferred to May 8, 2007, Item 2.3(b) was dropped in lieu of Item 2.3(a) and Item 3.4 was deferred to May 15, 2007. Per Orders of the Evening, Item 11.3 was continued to May 15, 2007. (10-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to City Hall Event Services team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Mayor Reed and City Manager Les White recognized and commended the City Hall Event Services Team for their outstanding dedication and important contributions to the City of San José.

- 1.4 Presentation of a commendation to the Silicon Valley Conference for Community and Justice for the extraordinary work they do with youth to promote peace and prevent hate. (Mayor)
(Rules Committee referral 4/18/07)**

Action: Mayor Reed recognized and commended the Silicon Valley Conference for Community and Justice for their efforts in promoting peace with the youth of San José.

- 1.5 Presentation of a commendation to the Office of the City Clerk recognizing the week of April 29-May 5, 2007 as Municipal Clerks Week. (Mayor)
(Rules Committee referral 4/18/07)**

Action: Mayor Reed recognized the week of April 29 through May 5, 2007 as "Municipal Clerks Week" in San José and presented a plaque to City Clerk Lee Price and Staff.

- 1.7 Presentation of a proclamation declaring May 1st through May 7th as Public Service Recognition Week. (City Manager's Office)
(Rules Committee referral 4/25/07)**

Action: Mayor Reed recognized May 1 through May 7, 2007 as "Public Service Recognition Week" in the City of San José and presented a plaque to City Manager Les White.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-1. Absent: Cortese.)

- 2.1 (a) Current Minutes**
- (1) General Plan Major Strategies Study Session Minutes of February 5, 2007**
 - (2) Regular Minutes of February 6, 2007**
 - (4) Unfunded Initiatives Study Session Minutes of February 22, 2007**
 - (6) Closed Session Minutes of February 20, 2007**

2.1 (a) (Cont'd.)

Documents Filed: (1) The General Plan Major Strategies Study Session Minutes dated February 5, 2007. (2) Regular Minutes dated February 6, 2007. (3) Unfunded Initiatives Study Session Minutes dated February 22, 2007. (4) Closed Session Minutes dated February 20, 2007.

Action: The Minutes were approved. (9-0-1. Absent: Cortese.)

(3) **Regular minutes of February 13, 2007**

(5) **Regular minutes of February 27, 2007**

Action: Deferred to 5/8/07 per Orders of the Day.

(b) **Past Minutes**

(1) **Regular Minutes of November 14, 2006**

(2) **Getting Families Back to Work Study Session Minutes of November 16 & November 17, 2006**

(3) **Regular Minutes of November 21, 2006**

(4) **2008-2012 Preliminary General Fund Forecast Study Session Minutes of November 28, 2006**

(5) **Coyote Valley Specific Plan Hydrology Considerations Study Session Minutes of September 29, 2006**

Documents Filed: (1) Regular Minutes dated November 14, 2006 and November 21, 2006. (2) Getting Families Back to Work Study Session Minutes dated November 16 & November 17, 2006. (3) 2008-2012 Preliminary General Fund Forecast Study Session Minutes dated November 28, 2006. (4) Coyote Valley Specific Plan Hydrology Considerations Study Session Minutes dated September 29, 2006.

Action: The Minutes were approved. (9-0-1. Absent: Cortese.)

2.2 (a) **ORD. NO. 28016 – Amending Chapter 9.44 of Title 9 of the San José Municipal Code by amending Section 9.44.045 entitled “Airport Smoking Regulations” authorizing the Director of Aviation to designate smoking and non-smoking areas at all outdoor areas at the Norman Y. Mineta San José International Airport.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28016 executed on April 24, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28016](#) was adopted. (9-0-1. Absent: Cortese.)

- 2.2 (b) **ORD. NO. 28017** – Amending Part 3 of Chapter 25.08 of Title 25 of the San José Municipal Code by amending Sections 25.08.300, 25.08.310, 25.08.500, 25.08.1320, 25.08.1340 and 25.08.1510 to increase the authority of the Director of Aviation to execute leases, licenses, exclusive use permits and other commercial activity agreements with terms in excess of 3 years and a total value of up to \$250,000.

Documents Filed: Proof of Publication of the title of Ordinance No. 28016 executed on April 24, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28017](#) was adopted. (9-0-1. Absent: Cortese.)

- (c) **ORD. NO. 28021** – Rezoning certain real property situated at the north side of Montague Expressway, 550 feet westerly of North First Street to A(PD) Planned Development Zoning District. PDC05-099

Documents Filed: Proof of Publication of the title of Ordinance No. 28016 executed on April 24, 2007, submitted by the City Clerk.

Action: Ordinance No. 28021 was adopted. (9-0-1. Absent: Cortese.)

- 2.3 (a) **Request for an excused absence from the Regular Evening City Council Meeting of April 17, 2007 due to illness.**

Documents Filed: Memorandum from Council Member Campos, dated April 17, 2007, requesting an excused absence.

Action: The excused absence from the Regular Evening City Council Meeting of April 17, 2007 due to illness, was approved. (9-0-1. Absent: Cortese.)

- (b) **Request for an excused absence from the Santa Clara Valley Water District Board Joint Study Session on Friday, April 20, 2007 due to Prior Long Standing Commitment.**

(Campos)

(Rules Committee referral 4/18/07)

Documents Filed: Memorandum from Council Member Campos, dated April 17, 2007, requesting an excused absence.

Action: Dropped, per Orders of the Day.

- 2.4 **Adoption of a resolution authorizing the City Attorney to negotiate and execute a Third Amendment to Continuation Agreement with Miller & Van Eaton, L.L.P. for consultant services related to cable television franchise renewal matters, extending the term through June 1, 2008, and decreasing compensation by \$65,000, to a total amount not to exceed \$510,000. CEQA: Not a Project. (City Attorney)**

2.4 (Cont'd.)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated April 19, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73741](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Third Amendment to Continuation Agreement with Miller & Van Eaton, LLP", was adopted. (9-0-1. Absent: Cortese.)

- 2.5 (a) **Approval of an Addendum augmenting the funding to the Sports Authority and the services to be performed by the Authority.**
- (b) **Adoption of the following Appropriation Ordinance Amendments in the General Fund:**
- (1) **Decrease the appropriation for the Sports Opportunity Fund by \$100,000.**
 - (2) **Increase the appropriation for the San José Sports Authority by \$100,000.**

CEQA: Not a Project. (City Manager's Office/Economic Development)

Documents Filed: Memorandum from Chief Development Officer, City Manager's Office, Paul Krutko and Budget Director Larry Lisenbee, dated April 11, 2007, recommending approval of an addendum and adoption of appropriation ordinance amendments.

Action: The addendum augmenting the funding to the Sports Authority and the services to be performed by the Sports Authority was approved and [Ordinance No. 28024](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the San José Sports Authority; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-1. Absent: Cortese.)

- 2.6 (a) **Adoption of a resolution authorizing the City Manager to accept \$385,000 on behalf of the Office of Economic Development, Work2future Division, from the State Employment Training Panel (ETP) to assist Nanosolar, Inc. with workforce training at their new San José manufacturing facility.**
- (b) **Approval of a contract with the State ETP regarding the use of the ETP funds; and**
- (c) **Approval of a sub-agreement with Nanosolar to provide training for their workers with the ETP funds.**
- (d) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:**
- (1) **Establish an appropriation to the Office of Economic Development for the State and Employment Training Panel Grant in the amount of \$385,000.**
 - (2) **Increase the estimate for Earned Revenue by \$385,000.**

CEQA: Not a Project. (City Manager's Office/Economic Development)

2.6 (Cont'd.)

Action: Renumbered to 4.2 per Administration.

- 2.7 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Increase the estimate for Earned Revenue by \$60,000.**
 - (2) Establish an appropriation to the Department of Public Works for the Eden Avenue Streetscape Improvement Project (PSM #487) in the amount of \$60,000.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Eden Avenue Streetscape Improvement project as more specifically described in the memorandum from the Redevelopment Agency, dated March 7, 2007.**

CEQA: Not a Project. (City Manager's Office/Public Works)

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of Public Works Katy Allen, dated April 11, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: [Ordinance No. 28025](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Eden Avenue Streetscape Improvement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73742](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Redevelopment Capital Projects Fund" and [Resolution No. 73743](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Winchester Neighborhood of the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (9-0-1. Absent: Cortese.)

- 2.8 Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Closed Session on April 17, 2007 due to Authorized City Business: Participating in a morning conference on Innovation America in Cupertino, CA. (Cortese)**
(Rules Committee referral 4/18/07)

Documents Filed: Memorandum from Vice Mayor Cortese, dated April 17, 2007, requesting an excused absence.

Action: The excused absence from the Regular Meeting of the Closed Session on April 17, 2007 due to Authorized City Business: Participating in a morning conference on Innovation America in Cupertino, California was approved. (9-0-1. Absent: Cortese.)

**2.9 Approval of the appointments of Elizabeth Monley, Diana Beechie and Troy Tibblis to the Downtown Parking Board. (Mayor)
(Rules Committee referral 4/18/07)**

Documents Filed: Memorandum from Mayor Reed, dated April 25, 2007, recommending approval of the appointments.

Action: The appointments of Elizabeth Monley, Diana Beechie and Troy Tibblis to the Downtown Parking Board were approved. (9-0-1. Absent: Cortese.)

- 2.10 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the Santa Clara Valley Water District for the construction of the Airport Parkway Under-Crossing Trail Project to increase funding for the project in an amount not to exceed \$601,000 for a total contract amount not to exceed \$2,375,500.**
- (b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 (Fund 381):**
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the TRAIL: Airport Parkway Under-Crossing project in the amount of \$179,000; and**
- (2) Decrease the Ending Fund Balance by \$179,000.**
- (c) Adoption of the following Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund (Fund 527):**
- (1) Increase the appropriation to the Airport Department for the TRAIL: Airport Parkway Trail Under-Crossing project by \$179,000; and**
- (2) Decrease the Ending Fund Balance by \$179,000.**

CEQA: Mitigated Negative Declaration, File No. PP04-323. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated April 13, 2007, recommending adoption of a resolution and appropriation ordinance amendments.

Action: [Resolution No. 73744](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment with the Santa Clara Valley Water District for Construction of the Airport Parkway Under Crossing Trail Project to Increase Funding for the Project in an Amount Not To Exceed \$601,000 to a Total Contract Amount Not To Exceed \$2,375,500"; [Ordinance No. 28026](#), entitled: "An Ordinance of the City of San José Amending [Ordinance No. 27801](#) to Appropriate Monies in the Construction Tax and Conveyance Tax Fund: Parks Purposes Council District No. 4 for the Trail: Airport Parkway Under Crossing Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", and [Ordinance No. 28027](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Airport Renewal and Replacement Fund for the Trail; Airport Parkway Under Crossing Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" adopted. (9-0-1. Absent: Cortese.)

- 2.11 (a) **Adoption of a Resolution authorizing the City Manager to accept an Anti-Drug Abuse Grant (ADA) award from the State of California in the amount of \$55,500 and to negotiate and execute any necessary documents for the grant;**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) **Establish a City-Wide appropriation to the Police Department for the Anti-Drug Abuse Grant in the amount of \$55,500; and**
- (2) **Increase the estimate for Revenue from the State of California by \$55,500. CEQA: Not a Project. (Police/City Manager's Office)**

Documents Filed: Memorandum from Police Chief Robert Davis and Budget Director Larry Lisenbee, dated April 11, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: [Resolution No. 73745](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an Anti Drug Abuse Grant from the State of California in an Amount Not To Exceed \$55,500 and to Negotiate and Execute all Related Documents"; [Ordinance No. 28028](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Anti Drug Abuse Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73746](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund", were adopted. (9-0-1. Absent: Cortese.)

- 2.12 **Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (a) **Establish an appropriation in the City-wide Expenses to the Police Department for the State of California Office of Traffic Safety "Click It or Ticket" Seatbelt Enforcement Program for Local Law Enforcement Agencies in the amount of \$89,711; and**
- (b) **Increase the estimate for Revenue from the State of California by \$89,711. CEQA: Not a Project. (Police/City Manager's Office)**

Documents Filed: Memorandum from Police Chief Robert Davis and Budget Director Larry Lisenbee, dated April 11, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28029](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Office of Traffic Safety 2006-2007 'Click it or Ticket' Seatbelt Enforcement Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73747](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund" adopted. (9-0-1. Absent: Cortese.)

2.13 Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code (Police and Fire Department Retirement Plan) to permit members of the Police and Fire Department Retirement Plan who are employed in the Police Department to:

- (a) Redeposit previously withdrawn contributions at any time prior to retirement;**
- (b) Purchase service credit for previous Federated Service at any time prior to retirement; and**
- (c) Purchase service credit in the Plan for time on unpaid leave of absence.**

CEQA: Not a Project. (Police and Fire Retirement Board)

Documents Filed: Memorandum from Acting Secretary, Board of Administration Thomas J. Webster, dated April 11, 2007, recommending approval of an ordinance.

Action: [Ordinance No. 28030](#), entitled: “An Ordinance of the City of San José Amending Chapter 3.36 of Title 3 of the San José Municipal Code to Permit Members of the Police and Fire Department Retirement Plan Who are Employed in the Police Department to Redeposit Previously Withdrawn Contributions, To Purchase Service Credit for Previous Federated Service at any Time Prior to Retirement, and To Purchase Service Credit in the Plan for Time on Unpaid Leave of Absence”, was passed for publication. (9-0-1. Absent: Cortese.)

- 2.14 (a) Report on bids and award of contract for the Columbus Park Horseshoe Complex project to the low bidder, Robert A. Bothman, Inc., in the amount of \$358,271 and approval of a contingency in the amount of \$17,913.**
- (b) Adoption of the following Appropriation Ordinance Amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes (Fund 391):**
- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Columbus Park Horseshoe Complex project by \$107,000; and**
 - (2) Decrease the Ending Fund Balance by \$107,000.**

CEQA: Exempt, File No. PP05-227. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 11, 2007, recommending award of the contract to the low bidder. (2) Supplemental memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated April 24, 2007, providing additional information obtained after the bids were opened and adoption of appropriation ordinance amendments.

2.14 (Cont'd.)

Action: The award of contract for the Columbus Park Horseshoe Complex project to the low bidder, Robert A. Bothman, Inc., with related contingency, was approved and [Ordinance No. 28031](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes for the Columbus Park Horseshoe Complex Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (9-0-1. Absent: Cortese.)

2.15 Approval of Council Member Liccardo’s travel to Los Angeles, CA on April 23, 2007 to attend a Luncheon Event and Speech. Source of Funds: California Leadership Political Action Committee. (Liccardo) (Rules Committee referral 4/25/07)

Documents Filed: Memorandum from Council Member Liccardo, dated April 19, 2007, requesting approval for travel.

Action: The travel of Council Member Liccardo to Los Angeles, CA on April 23, 2007 to attend a Luncheon Event and Speech. Source of Funds: California Leadership Political Action Committee was approved. (9-0-1. Absent: Cortese.)

2.16 Approval of the appointment of Rani Yadav-Ranjan to the San José Arena Authority Board of Directors. (Mayor) (Rules Committee referral 4/25/07)

Documents Filed: Memorandum from Mayor Reed, dated April 25, 2007, recommending the appointment of Rani Yadav-Ranjan.

Action: The appointment of Rani Yadav-Ranjan to the San José Arena Authority Board of Directors was approved. (9-0-1. Absent: Cortese.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – April 11, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated April 11, 2007.

- (a) City Council
 - (1) Review New Add Items to April 17, 2007 Agenda

The Committee approved the April 17, 2007 City Council Agenda with five additions.

3.1 Report of the Rules and Open Government Committee – April 11, 2007 (Cont'd.)
Mayor Reed, Chair

- (2) Review April 24, 2007 Draft Agenda

The Committee approved the April 24, 2007 Draft City Council Agenda with four additions.

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting.

- (c) Legislative Update

- (1) State

- (a) Adopt Support Position for HR 359 (Solis), the César Estrada Chavez Study Act. (Cortese)

Deferred to 4/18/07 per the Committee.

- (2) Federal - There was none.

- (d) Meeting Schedules - There was none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 6, 2007, transmitting items for the Public Record and Administration for the period of March 29-April 5, 2007.

The Committee noted and filed the Public Record, except the letter from the Human Rights Commission regarding Jeppeson International. Staff was directed to return on April 18, 2007 to report whether the San José Redevelopment Agency is funding Jeppeson International and to determine the City's ability to investigate Jeppeson International.

- (f) Appointments to Boards, Commissions and Committees

- (1) Re-appointments to the following Commissions: Airport Commission, Arts Commission, Early Care and Education commission, Library Commission, Senior Citizens Commission and Traffic Appeals Commission. (Reed/Williams/Chirco/Nguyen/Constant)

The Committee approved the reappointments.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Review the Independent Police Auditor's IPA/Human Rights Commission (HRC) Report and Recommendations from Community Forums Regarding the Police in San José. (IPA/HRC)
Deferred to 4/25/07 per the Committee.

3.1 Report of the Rules and Open Government Committee – April 11, 2007
Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Approve Travel Requests. (Campos/Cortese/Chirco)

The Committee approved the travel requests.

- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development
 - (2) Neighborhood Services and Education

There were none.

- (3) Transportation and Environment
 - (a) Plug-In Hybrid Vehicles

The Committee approved this item.

- (i) Open Government Initiatives
 - (1) Reed Reforms - There were none.
 - (2) Sunshine Reform Task Force
 - (a) Update 2/24/07 Meeting on Law Enforcement Records. (City Manager/Chief of Police)

The Committee accepted the report.

- (3) Significant Public Records Act Requests
 - (a) Response to Public Records Act – Potential Soccer Stadium
(Continued from 4/4/07)

The Committee accepted Mayor Reed's memorandum with additions suggested by Council Member Liccardo.

- (j) Open Forum - There were none.
- (k) Adjournment - The meeting was adjourned at 2:56 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Rules and Open Government Committee Report and the actions of April 11, 2007, were accepted. (9-0-1. Absent: Cortese.)

3.2 Report of the Public Safety, Finance and Strategic Support Committee – April 19, 2007 Council Member Nguyen, Chair

Documents Filed: The Public Safety, Finance and Strategic Support Committee Report dated April 19, 2007.

- (a) Consent Calendar
 - (1) Update of Council Directives
- (b) Review of Performance Measures Specified in the Annual Budget
- (c) Discussion of Recommendations Regarding Reuse of Old City Hall
Deferred
- (d) Review of Mayor Reed's Public Safety Transition Committee Recommendations. Attachment: Memorandum from Deputy City Manager Deanna J. Santana, dated March 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) City's Bi-Monthly Financial Report for January/February 2007. Attachment: Memorandum from Budget Director Larry Lisenbee, dated April 5, 2007, recommending providing the report.

The Committee accepted the Staff report.

- (f) Redevelopment Agency Monthly Financial Reports. Attachment: Memoranda from Redevelopment Agency Executive Director Harry S. Mavrogenes, all three dated April 6, 2007, recommending acceptance of the reports.
 - (1) Financial Statements – February 2007
 - (2) Capital Cost Report – February 2007
 - (3) Cash Flow Projections – February 2007

The Committee accepted the Staff report.

- (g) An Audit of the San José Municipal Water System Consolidated Water Utility Fund Transfers

The Committee accepted the Staff report.

- (h) Audit of the Traffic Calming Program
- (i) An Audit of the Bridge Repair Program
- (j) Review of City Financial Investment Program and Investment Policy by External Auditor
Deferred.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee – April 19, 2007
Council Member Nguyen, Chair (Cont'd.)**

(k) Oral Petitions - None were presented.

(l) Adjournment - The meeting was adjourned at 2:40 p.m.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and the actions of April 19, 2007, were accepted. (9-0-1. Absent: Cortese.)

3.3 (a) Approve the methodology and process to validate policies in the City Council Policy Manual.

(b) Validation of the first 18 out of 31 policies as contained in the Council Policy Manual and adoption of a resolution validating the following policies:

- (1) Policy 0-10: General Task Forces and Committees;**
- (2) Policy 0-11: Council Resolution Policy;**
- (3) Policy 0-28: Censure Policy;**
- (4) Policy 0-31: Council Staff Interaction;**
- (5) Policy 1-11: City Participation in Regional Transportation;**
- (6) Policy 1-15: Debt Management Policy;**
- (7) Policy 1-16: Policy for Issuance of Multifamily Housing Revenue Bonds;**
- (8) Policy 2-1: Exhibition of Federal, State, City flags from City Buildings – All Occasions;**
- (9) Policy 4-2: Streetlight Conversion;**
- (10) Policy 5-3: Transportation Impact Policy;**
- (11) Policy 5-6: Traffic Calming Policy for Residential Neighborhoods;**
- (12) Policy 6-5: Street Naming and Street Name Change;**
- (13) Policy 6-14: Guidelines for Child Day Care;**
- (14) Policy 6-25: Guidelines for Designation of City Historic Landmarks;**
- (15) Policy 6-30: Public Outreach Policy;**
- (16) Policy 7-2: City Hall Facility Use;**
- (17) Policy 9-3: Community Identification Signs;**
- (18) Policy 9-11: Distribution of Arena Tickets.**

(City Manager)

[Rules Committee referral 4/18/07 – Item (I)(4)]

Documents Filed: Memorandum from City Clerk Lee Price, dated April 18, 2007, recommending approval of the methodology and process to validate policies in the City Council Policy Manual and adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the methodology and process to validate policies in the City Council Policy Manual was approved and [Resolution No. 73748](#), entitled: “A Resolution of the Council of the City of San José Validating Policies Contained in the City Council Policy Manual”, was adopted. (10-0.)

- 3.4 (a) **Approval of the proposed fiscal year 2006/07 - 2011/12 Work Plan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.**
(b) **Direction to staff to take collective action with other cities for advocacy for increased accountability and resource allocation for the delivery of Rule 20A projects.**

CEQA: Not a Project. (Public Works)

Action: Deferred to 5/15/07 per Orders of the Day.

**3.5 Report of the Rules and Open Government Committee – April 4, 2007
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated April 4, 2007.

- (a) City Council
(1) Review New Add Items to April 10, 2007 Agenda

The Committee approved the April 10, 2007 City Council Agenda with four additions.

(2) Review April 17, 2007 Draft Agenda

The Committee approved the April 17, 2007 Draft City Council Agenda with four additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting.
- (c) Legislative Update
(1) State
(2) Federal

There were none.
- (d) Meeting Schedules
(1) Adopt Revised 2007-2008 City Budget Calendar and Budget Study Session Schedule. (City Manager's Office)

The Committee approved the revised City Budget Calendar.
- (e) The Public Record

The Committee noted and filed the Public Record.
- (f) Appointments to Boards, Commissions and Committees - There were none.

3.5 Report of the Rules and Open Government Committee – April 4, 2007 (Cont'd.)
Mayor Reed, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Review of the Mexican Heritage Corporation's Ability to Operate and Maintain Mexican Heritage Plaza. (Auditor's Office)

The Committee agreed to place this item on the April 17, 2007 City Council Agenda to consider any short term and long term options and to have Staff return to the Rules and Open Government Committee on April 18, 2007 to discuss strategies, options and recommendations.

- (2) Approve Travel Requests. (Constant/Liccardo)

The Committee approved the travel requests.

(h) Review of Council Committee Agendas

The Committee approved the recommended addition to the Community and Economic Development Work Plan.

(i) Open Government Initiatives

- (1) Reed Reforms

- (a) Acceptance of the proposed curriculum for a Council Assistant Certification Program per Reed Reform #25. (City Manager's Office/City Clerk/City Attorney)

Deferred to 4/18/07.

- (2) Sunshine Reform Task Force - There was none.

- (3) Significant Public Records Act Requests

- (a) Response to Public Records Act-Potential Soccer Stadium.
Continued to 4/11/07.

- (4) Council Policy Manual Update - There was none.

(j) Open Forum - None were presented.

- (k) Adjournment - The meeting was adjourned at 4:54 p.m.
(Deferred from 4/24/07 – Item 2.1)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of April 4, 2007, were accepted. (10-0.)

3.6 Report of the Rules and Open Government Committee – March 28, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated March 28, 2007.

(a) City Council

(1) Review New Add Items to April 3, 2007 Agenda

The Committee approved the April 3, 2007 City Council Agenda with four additions.

(2) Review April 10, 2007 Draft Agenda

The Committee approved the April 10, 2007 Draft City Council Agenda with four additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting.

(c) Legislative Update

(1) State

(a) Acceptance of the March 2007 State Legislative Bill Matrix.
(Manager's Office)

Roxann Miller, City Lobbyist, provided an overview of Sacramento's top priority issues.

(2) Federal - There were none.

(d) Meeting Schedules

The Committee agreed to drop the Airport Obstruction Study Session and to forward the matter to the Committee in August 2007.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(g) Rules Committee Reviews, Recommendations and Approvals

(h) Review of Council Committee Agendas

There were none.

3.6 Report of the Rules and Open Government Committee – March 28, 2007 (Cont'd.)
Mayor Reed, Chair

(i) Open Government Initiatives

(1) Reed Reforms

- (a) Acceptance of staff's proposed presentation on ethics to the Council in response to Reed Reform #26. (City Manager/City Attorney)

The Committee approved the proposed presentation to Council on April 10, 2007.

(2) Sunshine Reform Task Force

- (a) Update on current proposals and outstanding issues for Phase One recommendations including requirements for: (1) Public meetings, (2) Closed Session, and (3) Public Information. (Sunshine Reform Task Force)

Sheila Tucker provided a brief overview of Phase One Recommendations of the Sunshine Reform Task Force.

(3) Significant Public Records Act Requests

Vice Mayor Cortese requested that Staff place the Public Records Act request on the April 4, 2007 Rules & Open Government Agenda for discussion.

(4) Council Policy Manual Update - There was none.

(j) Open Forum

- (1) Bill Chew suggested that each committee member use the 2 minutes given during Open Forum to communicate with the community.
- (2) Ed Rast mentioned that the Sunshine Reform Task Force would like to see the City Council Policy Manual online. City Clerk Lee Price provided an update on the codification project which will include putting all the policies on the web site.

(k) Adjournment - The meeting was adjourned at 3:24 p.m.
(Deferred from 4/17/07 – Item 3.1 and 4/24/07 – Item 3.5)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Reports and the actions of March 28, 2007, were accepted.

- 3.7 (a) Approve a general set of “guiding principles” for the creation of programs related to Proposition 1C. Implementing legislation should allow the City of San José the opportunity to successfully compete for these future funds, which will help address the city’s need for more housing, parks, and transit-oriented development;**
- (b) The City Administration work closely with the California State Legislature on the development of enabling legislation for the four programs not yet defined under Proposition 1C once the guiding principles are approved.**

(Housing)

[Rules Committee referral 4/18/07 – Item(C)(1)(b)]

(Deferred from 4/24/07 – Item 3.7)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated April 18, 2007, recommending approval of the guiding principles. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated April 24, 2007, providing feedback and comments to the Proposition 1C Legislation guiding principles memorandum.

Director of Housing Leslye Krutko responded to Council questions. A short discussion followed.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, a general set of guiding principles for the creation of programs related to Proposition 1C, were approved. (10-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) Adoption of a resolution authorizing the City Manager to accept \$385,000 on behalf of the Office of Economic Development, Work2future Division, from the State Employment Training Panel (ETP) to assist Nanosolar, Inc. with workforce training at their new San José manufacturing facility.**
- (b) Approval of a contract with the State ETP regarding the use of the ETP funds; and**
- (c) Approval of a sub-agreement with Nanosolar to provide training for their workers with the ETP funds.**
- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:**
- (1) Establish an appropriation to the Office of Economic Development for the State and Employment Training Panel Grant in the amount of \$385,000.**
- (2) Increase the estimate for Earned Revenue by \$385,000.**

CEQA: Not a Project. (City Manager’s Office/Economic Development)

Note: Renumbered from 2.6 per Administration.

4.2 (Cont'd.)

Documents Filed: Memorandum from Chief Development Officer, City Manager's Office, Paul Krutko and Budget Director Larry Lisenbee, dated April 11, 2007, recommending adoption of a resolution, approval of the contract, approval of the sub agreement and adoption of appropriation ordinance and funding sources resolution amendments.

The Office of Economic Development Staff presented an overview of the State Employment Training Panel for Nanosolar.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, [Resolution No. 73749](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept \$385,000 on Behalf of the Office of Economic Development, Work2Future Division, From the State Employment Training Panel to Assist Nanosolar, Inc. with Workforce Training", was adopted; the contract with the State ETP regarding the use of the ETP funds, and a sub-agreement with Nanosolar to provide training for their workers with the ETP funds, were approved; [Ordinance No. 28032](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Workforce Investment Act Fund for the State and Employment Training Panel Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73750](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Workforce Investment Act Fund", were adopted. (10-0.)

NEIGHBORHOOD SERVICES

- 5.3 (a) Establish and adopt a "pilot program" which will allow for a private entity to provide park maintenance for the San Jose Municipal Rose Garden Park for one calendar year. The maintenance would include; pruning the trees, cleaning and servicing the bathrooms, mowing the lawn, dumping the garbage, removing the weeds, clipping the rose bushes, removing crab grass from rose beds, opening and closing the park and planting roses among other maintenance needs the park requires.
- (b) Direct city staff to follow the same bidding process as it does for other citywide projects in order to find a private landscaper/maintenance contractor to provide park maintenance for San Jose Municipal Rose Garden Park for one calendar year.
- (c) The "pilot program" will be measured at the end of the year in two areas; service delivered and money saved.

(Oliverio)

(Rules Committee referral 4/18/07)

5.3 (Cont'd.)

Action: Deferred to May 15, 2007, per Rules & Open Government Committee; to be heard in the evening.

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of Master Consultant agreements with:

- (a) **Leland Saylor Associates, Inc. for on-call Cost Consultant services for the Terminal Area Improvement Program at the Norman Y. Mineta San José International Airport from the date of execution of the agreement through December 31, 2010 in an amount not to exceed \$500,000.**
- (b) **Jefferson Wells International, Inc. for on-call Audit Consultant services for the Terminal Area Improvement Program (TAIP) at the Norman Y. Mineta San José International Airport from the date of execution of the agreement through December 31, 2010 in an amount not to exceed \$500,000.**

CEQA: Resolutions Nos. 67380 and 71451, File No. PP07-014. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated April 11, 2007, recommending approval of the master consultant agreements.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the master consultant agreements with Leland Saylor Associates, Inc. for on-call Cost Consultant services for the Terminal Area Improvement Program at the Norman Y. Mineta San José International Airport and Jefferson Wells International, Inc. for on-call Audit Consultant services for the Terminal Area Improvement Program (TAIP) at the Norman Y. Mineta San José International Airport, were approved. (10-0.)

6.3 **Report on bids and award of contract for the Remove and Replace Asphalt Concrete Pavement 2007 Project to the low bidder G. Bortolotto & Co, Inc., in the amount of \$1,344,390 and approval of a 10% contingency in the amount of \$134,000. CEQA: Exempt, File No. PP04-039. (Transportation) (Deferred from 4/24/07 – Item 6.3)**

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, dated April 4, 2007, recommending approval of the contract to the low bidder. (2) Supplemental memorandum from Director of Transportation James Helmer, dated April 20, 2007, providing additional information after the bids were opened.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the award of contract for the Remove and Replace Asphalt Concrete Pavement 2007 Project to the low bidder, Bortolotto & Co. Inc., with related contingency, was approved. (10-0.)

6.4 Report on bids and award of contract for the Street Resurfacing 2007 Backlog Reduction Project – Phase 1 to the low bidder O’Grady Paving, Inc., in the amount of \$4,531,860, and approval of a 10% contingency in the amount of \$453,000. CEQA: Exempt, PP06-066. Council Districts 1, 2, 3, 4, 5, 6 and 7. (Transportation) (Deferred from 4/24/07 – Item 6.4)

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, dated April 4, 2007, recommending award of the contract to the low bidder. (2) Memorandum from Director of Transportation James Helmer, dated April 20, 2007, providing additional information after the bids were opened.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, the award of the contract for the Street Resurfacing 2007 Backlog Reduction Project – Phase 1 to the low bidder, O’Grady Paving, Inc., with related contingency, was approved. (10-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9685	Northwest corner of Lick and West Alma Avenues	3	Barry Swenson Builders	1 Lot / 242 Units	MFA	Approve
9890	S/S of Fleming Ave, 1000’ SE of Alum Rock Ave	5	Braddock & Logan	16 Lots / 14 Units	SFD	Approve

OPEN FORUM

- (1) Ross Signorino agreed with the City Council that two minutes for public speakers is sufficient.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:20 p.m.

RECESS/RECONVENE

The City Council recessed at 2:20 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Chirco, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0.)

CEREMONIAL ITEMS

1.2 Presentation of a proclamation declaring May 2007 as Motorcycle Awareness Month. (Constant)

Action: Mayor Reed and Council Member Constant recognized May 2007 as “Motorcycle Awareness Month”.

1.3 Presentation of a commendation to Mr. Yang Xie for his dedicated service as a mentor to the Lynbrook High School Robotics Team. (Constant)

Action: Mayor Reed and Council Member Constant recognized and commended Mr. Yang Xie for his devoted service as a mentor to the Lynbrook High School Robotics Team.

1.8 Presentation of a commendation for Delorme McKee-Stovall for her tireless efforts to remove hate and prejudice from the neighborhoods in San José and Santa Clara County. (Mayor) (Rules Committee referral 4/25/07)

Action: Mayor Reed recognized and commended Ms. Delorme McKee-Stovall for her determined efforts to remove hate and prejudice from the local neighborhoods in San José and Santa Clara County.

1.9 Presentation of commendation recognizing the students and teachers for their accomplishments in science and engineering at the Synopsys Silicon Valley Science and Technology Championship. (Williams/Cortese) (Rules Committee referral 4/25/07)

Action: Mayor Reed, Vice Mayor Cortese and Council Member Williams recognized and commended the students and teachers for their achievements in science and engineering.

**1.6 Swearing in ceremony for Citywide Youth Commissioner Darlene Tu. (City Clerk)
(Rules Committee referral 4/25/07)**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 19, 2007, announcing the appointment and swearing-in of Ms. Darlene Tu.

Action: Mayor Reed introduced City Clerk Lee Price and Darlene Tu. City Clerk Lee Price administered an Oath of Office to the new Citywide Youth Commissioner Darlene Tu.

OPEN FORUM

Continued from afternoon Council Session:

- (1) Paul Manley reiterated a complaint about a Code Enforcement issue.
- (2) Robert Apgar voiced personal observations.
- (3) Mark Trout presented religious points of view.
- (4) William Garbett complained about the proposed garbage, sewer and stormwater rate increases.

NEIGHBORHOOD SERVICES

- 5.2 (a) Approval of an ordinance amending Title 7, the “Animal Ordinance” of the San José Municipal Code, in its entirety, to update existing animal related regulations to reflect current animal care and control practices regarding the proper and adequate care of animals; to revise livestock and small animal regulations, sale of animals, rabies vaccinations, and animal trapping; to define new terms; and to make other technical and conforming changes.**
- (b) Approval of an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of animal infractions to include the new code sections.**

**CEQA: Not a Project. (Parks, Recreation and Neighborhood Service)
(Deferred from 4/10/07 – Item 5.2)**

Documents Filed: (1) Memorandum from Council Member Constant, dated April 30, 2007, recommending approval of an ordinance with amendments. (2) Memorandum from City Attorney Richard Doyle, dated March 29, 2007, transmitting the proposed ordinance to amend the Animal Regulations. (3) Supplemental memorandum from City Attorney Richard Doyle, dated April 18, 2007, transmitting in addition to the recommendations for substantive changes, the entire Title 7 was reorganized to reflect a more logical grouping of like provisions and renumbered. (4) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 21, 2007, recommending approval of the ordinances. (5) Staff presentation Animal Care and Services, Animal Ordinance Revisions, dated May 1, 2007. (6) Four hundred eighty one emails from the public, regarding the proposed changes to the animal ordinance.

5.2 (Cont'd.)

Deputy Director Animal Care and Services Jon Cicirelli presented an overview of the Animal Care and Services Animal Ordinance Revisions.

Council Member Constant summarized the proposed amendments to Title VII (Animal Ordinance of the San José Municipal Code, contained in his memorandum dated April 30, 2007.

City Attorney Richard Doyle and Deputy Director Animal Care and Services Jon Cicirelli responded to Council questions. Discussion followed.

Public Comments: Supervisor Pete McHugh spoke in favor of adding the word “guardian” but was opposed to providing an exemption to rescue groups (outdoor sales). Patricia Watson, American Kennel Club (AKC), spoke against the guardian terminology and animal limits but indicated that Council Member Constant’s memorandum was acceptable to the AKC.

Speaking in opposition to the revisions proposed by Staff were DeEtte Starr, Ellen Levy Finch, Mark McDonald, Susan Phillips, Karen Johnson, National Pet Alliance, Terry Southard, Tom Baker, Joy Baker, Debbie Howard, Sandra Sims, Delicate Animal Rights Educators, Inc., Carl Schroeder, Christina Hemingway and Kathleen Flynn, Dedicated Animal Rights Educators, Inc.,

Speaking in support of the revisions and Council Member Constant’s memorandum were Karen Scott, Laura Fulda, Christine Banninger, Beth Warp, Lisa Warden, Humane Society, Fred Walters, Santana Row, Judy Shapiro, Passion for Pets Rescue, Laura Meto, Itty Bitty Orphan Kitty Rescue, Diane Casua, Safehaven Animal Sanctuary, Rosi Mirko, Town Cats Nonprofit Cat Rescue, Lorna Pusateri, Judy Jones and Nancy Orr.

Motion: Council Member Constant moved for Staff to return in June (Evening) with a revised ordinance to take action on what he has outlined in his memorandum dated April 30, 2007, including adding outdoor pet fairs and clear standards of care and safety for all animals, perimeter fencing, food and water. Council Member Pyle seconded the motion.

Vice Mayor Cortese requested to amend the motion by adding not only standards of care but endorsement of care and requested that when Staff returns, indicate how Staff will outreach to the community beginning now and through June 2007. Council Member Constant and Council Member Pyle accepted the amendment.

Council Member Williams requested that Staff look at using both indoor and outdoor adoption fairs.

Mayor Reed objected stating he objects to outdoor adoption fairs.

5.2 (Cont'd.)

Action: On a call for the question, the motion carried, and Staff requested to return in 30 days with revised ordinances, incorporating the following revisions outlined in the memorandum from Council Member Constant, dated April 30, 2007, approved as amended: (1) Section 7.10.125, remove definition of the term “Guardian”, and replace it with “person of in control or possession”. (2) Section 7.10.175, amend definition of the term “Police Dog” to “...officially used by a peace officer...”. (3) Section 7.10.200, add reference to “Service Dog-in-Training” having same treatment as “Service Dog” throughout the Code. (4) Section 7.20.520(B), change use of word “shall” so that Animal Control Officers may utilize discretion to encourage compliance rather than be forced impound every unlicensed dog or cat. (5) Section 7.20.570, add language to allow show dogs to receive a microchip for identification rather than metal tags at the owner’s sole expense. (6) Remove Section 7.40.020(B). (7) Section 7.40.020(D), add text as follows: “...of more than one (1) litter per year of any dogs or cats...”. (8) Section 7.40.040(B), change text to allow the use of retractable leashes as long as the length is maintained at no more than six (6) feet when in the presence of other animals and/or people. (9) Section 7.40.100, change text to exempt all service dogs and police dogs, as well as to add animal events as an authorized event. (10) Section 7.50.010(C), add language that ensures that the impoundment is supported by the evidence on the record. (11) Section 7.60.030, add text as follows: “...of more than one (1) litter per year of dogs or cats...”. (12) Section 7.60.770, remove the word “palatable” from this section. (13) In all sections of the code that discuss hearings before a Hearing Officer, add language similar to Section 7.30.330 to specify a time certain period for the owner of an animal to appeal the decision to the superior court. (14) Approval of an ordinance amending Section 1.087.020 of Chapter 1.08 of Title I of the San José Municipal Code to update the list of animal infractions to include the new code sections. (15) Direct Staff to return to Council with guidelines for the composition of the Animal Advisory Committee (AAC) ensuring that all viewpoints are represented on the Committee, criteria for appointment to the Committee and clarifying the role of the AAC. (16) Direct Staff to make information about the AAC available on the City website, including but not limited to dates and times of meetings, meeting agendas and minutes and names and affiliations of committee members. (17) Direct Staff to adequately notice all meetings of the AAC according to the City’s policy for noticing and conduct meetings in accordance with the Brown Act. (18) Direct Staff to conduct greater public outreach when making significant changes to the San José Municipal Code, similar to the outreach outlined in the City Council Policy 6-30. (19) Direct the City Attorney that all summaries of the substantive changes to regulations specifically include notice of sections that are removed from the regulation in addition to the current practice of noting those sections that are new or modified. (20) Staff to clearly identify standards of care and safety for outdoor pet fairs. (21) Staff to intensify outreach between now and when the matter comes back next month, including using other resources, i.e. Council offices. (9-1. Noes: Reed.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board was convened at 9:12 p.m. to consider Item 9.1 in a Joint Session.

- 9.1**
- (a) Acceptance of the Strong Neighborhoods Initiative (SNI) *Winchester Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the Winchester SNI Planning Area, and**
 - (b) Encourage the Winchester area residents, property owners, and community members to continue to dedicate their time, energy, and resources towards the *Plan* and this Amendment while continuing with their community-building activities.**

(Deferred from 4/17/07 – Item 9.1)

Documents Filed: (1) Memorandum from Council Members Constant and Oliverio, dated April 23, 2007, recommending approval of the amended Winchester SNI Neighborhood Improvement Plan with additional modifications as outlined below in “Action”. (2) Replacement memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated April 20, 2007, providing revised language for the Winchester Strong Neighborhoods Staff Report and recommending acceptance of the report. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 2, 2007, transmitting the Planning Commission recommendation.

Public Comments: Charles Lauer and Richard Kabanek, Winchester NAC, spoke in favor of the amendments to the Strong Neighborhoods Initiative Winchester Neighborhood Improvement Plan.

Motion: Council Member Constant moved approved approval of the memorandum he cosigned with Council Member Oliverio. Council Member Campos seconded the motion.

Brief discussion followed.

Action: On a call for the question, the motion carried unanimously, and the Strong Neighborhoods Initiative Winchester Neighborhood Improvement Plan Amendments were accepted, with Staff directed to: (1) Initiate the planning process to create a new NBD General Plan Overlay for Winchester Boulevard. (2) Begin developing a neighborhood plan for new parks and increased open space in the Winchester SNI area. (10-0.)

The Joint Redevelopment Agency Board was adjourned at 9:18 p.m.

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located at/on the southeast corner of North Capitol Avenue and Grandview Drive (652 N Capitol Avenue) from Unincorporated County to R-1-8 Residential Zoning District to allow for 2 single-family detached residential units on a 0.57 gross acre site (Lin Li, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C04-106 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-106, dated April 10, 2007, recommending approval on the subject rezoning. (2) Proofs of Publications of Notices of Public Hearings, executed on April 20, 2007 and April 29, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28033](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of North Capitol Avenue and Grandview Drive (652 North Capitol Avenue) to R-1-8 Residence Zoning District”, was passed for publication. (10-0.)

- (b) Consideration of ordinance rezoning the real property located at/on the northeast corner of Willow Glen Way and Cross Way from R-M Residential Zoning District to A(PD) Planned Development Zoning District to allow 9 single-family attached residences on a 0.34 gross acre site (425 Willow Glen Way) (William Henderson, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval. (6-0-1).**
PDC06-084 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-084, dated April 2, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 12, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on March 30, 2007, submitted by the City Clerk.

11.1 (b) (Cont'd.)

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28034](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Willow Glen Way and Cross Way (425 Willow Glen Way) to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

- (c) **Consideration of an ordinance rezoning the real property located at/on the east side of Senter Road, approximately 550 feet northerly of Quinn Avenue (2222 Senter Road) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow construction of approximately 54,200 square feet in three, one- and two-story buildings for office and retail commercial uses as well as various industrial uses on a 3.62 gross acre site (ELS Properties Corp, Owner; Green Valley Corporation/Barry Swensen Builder, Aaron Barger, Developer). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration.**
PDC06-119 – District 7

Action: Continued to May 15, 2007 per Administration.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

- 11.2 (a) Adoption of a resolution rescinding City Council certification of the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San Jose Planned Development Rezoning File No. PDC02-086, which certification occurred on December 2, 2003.
- (b) Consideration of approval of an ordinance rescinding Ordinance No. 27032 adopted by the City Council on December 16, 2003 rezoning the real property located at the southeasterly corner of Blossom Hill and Cottle Roads (5600 Cottle Road) from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District to allow approximately 222,673 square feet of commercial uses on an 18.75 gross acre site, the demolition of the existing IBM/Hitachi Research Building 25, and the removal of approximately 136 ordinance size trees from the site.
- (c) Adoption of a resolution rescinding City Council Resolution No. 71860 adopted on December 2, 2003 making certain findings in connection with the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San Jose Planned Development Rezoning File No. PDC02-086 as required by the California Environmental Quality Act of 1970, as amended, adopting a certain mitigation monitoring and reporting program, and setting for a statement of overriding considerations for identified significant environmental impacts.
- (d) Consideration of adoption of an ordinance rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads from IP(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of the existing industrial park buildings (Buildings 025, and 024 and 030) and associated site improvements, the removal of up to 385 trees from the site, and the construction of a new, approximately 204,000 square foot commercial facility (including a retail/commercial use, with a single occupant greater than 100,000 square feet (with a garden center), and other retail/commercial uses)(IBM, Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends denial. (6-0-1).

PDC06-003 – District 2

(Continued from 4/17/07 – Item 11.3)

Council Member Williams recused himself from participating on Item 11.2 because he is a former IBM employee and receives a pension.

Director of Planning, Building and Code Enforcement Joseph Horwedal presented an overview of the proposed rezoning located on the northeasterly corner of Cottle and Poughkeepsie Roads on PDC06-003, and responded to Council questions.

Mayor Reed opened the public hearing.

11.2 (Cont'd.)

Mark Stone, representing Lowe's, the Applicant, presented an overview of the project. John Lattyak, representing IBM, spoke regarding the historical value of Building 25. Mark Stone and John Lattyak responded to Council questions.

Council discussion followed.

Motion: Council Member Pyle moved approval of the adoption of an ordinance rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads from IP(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District and requested that Staff explore other ways to recognize the historic significance of Building 25. Council Member Constant seconded the motion.

Public Comments: Speaking in support of the proposed rezoning were: Jim Arbuckle, Edward Janke, Historic Landmarks Commission, Bob Keive, Pat Dando, San José Silicon Valley Chamber of Commerce and James Randolph.

Speaking in opposition to the proposed rezoning were: Steve Polcyn, Brian Grayson, Megan Bellue, Judi Henderson, Andre Luthard, Preservation Action Council San José, Anthea Hartig, National Trust for Historic Preservation, Corri Jimenez, Recent Past Preservation Network, James Zetterquist, Sal Sunseri, Peter and Kris Dessalle, Bonnie Bamburg and Jean Dresden.

Mayor Reed closed the public hearing.

Council Member Oliverio requested a deferral of this item for two weeks. Council Member Constant proposed a friendly amendment to include a financial contribution by Lowe's to offset the loss of Building 25. The amendment was accepted by Council Member Pyle and Council Member Constant.

Council Member Campos expressed opposition. Council Member Chirco objected to the motion, being liaison to the Historic Committee, expressed concern regarding Building 25.

Action: On a call for the question, the motion carried, Staff was directed to return on May 15, 2007 for Council Action with findings that will allow demolition of "Building 25" and suggestions on other ways to recognize the historical significance of the building, including consideration of a financial contribution by Lowe's. (7-2-0-1. Noes: Campos, Chirco. Disqualified: Williams.)

- 11.3 Consideration of an ordinance rezoning the real property located on a portion of block bounded by The Alameda, Emory Street, Naglee Avenue, and Morse Street; east side of Morse Street, approximately 150 feet northerly of Naglee Avenue (744 Morse St) from R-1-8 Single Family Residence Zoning District and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow relocation and rehabilitation of one historic single-family residence (Structure of Merit), two new single-family detached residences, and parking lot reconfiguration for the Central YMCA on a 4.18 gross acre site (Metropolitan YMCA & LeBaron Family Trust, Owners; Mark DeMattei, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2).
PDC06-100 - District 6
(Continued from 4/24/07 – Item 11.2)**

Action: Continued to May 15, 2007 per Orders of the Evening.

- 11.4 Consideration of an ordinance rezoning the real property located on the east side of Almaden Expressway, approximately 200 feet north of Fleetwood Drive (16310 Almaden Road) from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow sing single-family detached residences on a 1.07 gross acre site (Rds Investments Chris Soukoulis, Owner/Developer). CEQA: Mitigated Negative Declaration.
PDC06-070 - District 10**

Action: Continued to May 15, 2007 per Administration.

ADJOURNMENT

The Council of the City of San José adjourned at 11:00 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/5-1-07MIN

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